



**FOLEY
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ATTORNEYS AT LAW

September 14, 2004

Mary Beth Gentleman
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By Hand

Ms. Mary L. Cottrell
Secretary
Department of Telecommunications & Energy
One South Station
Boston, MA 02110

Re: D.T.E. 04-61 -- Petition of Boston Edison Company and Commonwealth
Electric Company for Approvals Relating to the Termination of Power
Purchase Agreements with MASSPOWER

Dear Ms. Cottrell:

On behalf of MASSPOWER, I enclose for filing in the above-referenced docket one original and six copies of the Response of MASSPOWER to Amended Petition of Massachusetts Municipal Wholesale Electric Company for Limited Participant Status. A copy will also be filed electronically.

Kindly date stamp the enclosed copy of this letter, and return same to our messenger.

Thank you for your attention to this matter.

Sincerely,


Mary Beth Gentleman

MBG:jrd
Enclosures

cc: Joan Foster Evans, Hearing Officer (1 copy) (by hand)
Mr. Jeffrey W. Bentz (1 copy) (by mail)
Robert Werlin, Esq. (by hand)
John Habib, Esq. (by hand)

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

D.T.E. 04-61

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon all persons below in accordance with the requirements of 220 C.M.R. § 1.05 and the procedural rules in this docket.

Dated at Boston this 14th day of September, 2004.



Mary Beth Gentleman
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155 Seaport Boulevard
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Mary L. Cottrell, Secretary
Department of Telecommunications and
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One South Station
Boston, MA 02210

Robert N. Werlin, Esq.
John K. Habib, Esq.
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265 Franklin Street
Boston, MA 02110

Joan Foster Evans, Hearing Officer
Department of Telecommunications and
Energy
One South Station
Boston, MA 02110

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Petition of Boston Edison Company and)
Commonwealth Electric Company for)
Approvals Relating to the Renegotiation of)
Power Purchase Agreements With MASSPOWER)

D.T.E. 04-61

**Response of MASSPOWER
to
Amended Petition of
Massachusetts Municipal Wholesale Electric Company
for
Limited Participant Status**

MASSPOWER hereby responds, pursuant to 220 CMR § 1.01(1)(d), to the Amended Petition of Massachusetts Municipal Wholesale Electric Company for Limited Participant Status filed with the Department of Telecommunications and Energy (“Department” or “DTE”) on September 13, 2004 in the above captioned matter. In this September 13 filing (“Amended Petition”), Massachusetts Municipal Wholesale Electric Company (“MMWEC”) withdrew its earlier request to intervene in the instant matter as a full party and requested that it, instead, be granted “leave to participate in proceeding as a limited participant ... for informational purposes.”

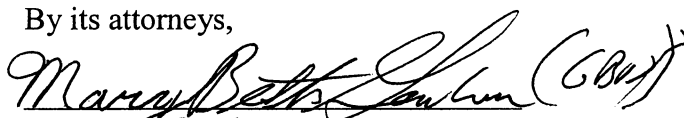
MASSPOWER does not object to MMWEC being allowed to participate in this proceeding as a limited participant. MASSPOWER takes this position with the express understanding that as a limited participant MMWEC will not be a party in interest and will not have a right to take an appeal from the Department’s decision. G.L. c. 25, § 5 (appeals may be taken by an “aggrieved party in interest”); *Robinson v. Department of Public Utilities*, 416

Mass. 668, 671 (1993)(“undisputed that a limited participant does not qualify as a party in interest”). MASSPOWER’s position is also predicated on the express understanding that MMWEC’s limited participation will not expand the scope of or otherwise delay the course of this proceeding. As is stated in the Amended Petition, MMWEC is a buyer under a contract for power from MASSPOWER’s electric generation facility, but issues related to that contract and to MMWEC’s entitlements thereunder are outside the scope of this proceeding. The Department must be vigilant to ensure that MMWEC’s “limited participation” in this proceeding is limited to the scope of this proceeding and that any discovery be “intended to reduce hearing time, narrow the scope of issues, [and] protect the rights of the parties” in this proceeding. 220 C.M.R. § 1.03(6)(c)1. From time to time, MMWEC and MASSPOWER discuss their power contract, but the instant proceeding is not an appropriate forum to either raise issues related to that contract or to engage in a search for information related to that contract.

Respectfully submitted,

MASSPOWER

By its attorneys,

A handwritten signature in black ink, appearing to read "Mary Beth Gentleman (Gent)", is written over the printed name.

Mary Beth Gentleman
Foley Hoag LLP
155 Seaport Boulevard
Boston, MA 02210
(617) 832-1000

Dated: September 14, 2004